

304.15-710 Life settlement provider's duties of disclosure to owner.

- (1) With each application for a life settlement contract, a life settlement provider or life settlement broker shall provide the owner a copy of the department's consumer guide relating to life settlements. The provider shall provide in writing, in a separate document that is signed by the owner and provider the information in this subsection to the owner no later than the date the life settlement contract is signed by all parties. The written disclosures shall be conspicuously displayed in any life settlement contract or in a separate document furnished to the owner by a provider including any affiliations or contractual arrangements between the provider and the broker and shall provide the following information:
 - (a) That there are possible alternatives to life settlement contracts including but not limited to accelerated benefits or policy loans offered under the owner's policy;
 - (b) That some or all of the proceeds of the life settlement may be taxable under federal income tax laws and state franchise and income tax laws, and that assistance should be sought from a personal tax advisor;
 - (c) That proceeds of the life settlement contract could be subject to the claims of creditors;
 - (d) That receipt of the proceeds of a life settlement contract may adversely affect the owner's eligibility for Medicaid or other government benefits or entitlements, and that advice should be obtained from the appropriate government agencies;
 - (e) That the owner has a right to rescind a life settlement contract before the earlier of thirty (30) calendar days of the date it is executed by all parties or fifteen (15) calendar days after the receipt of the proceeds of the life settlement contract by the owner. If exercised by the owner, rescission is effective only if both notice of the rescission is given, and within the rescission period all proceeds, and any premiums, loans, and loan interest are repaid to the settlement provider. If the insured dies during the rescission period, the settlement contract shall be deemed to have been rescinded, subject to repayment of all life settlement proceeds and any premiums, loans, and loan interest to the life settlement provider. The life settlement provider shall effectuate the change of ownership of the policy or certificate to the owner immediately upon effective rescission by the owner;
 - (f) That entering into a life settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy, to be forfeited by the owner and that assistance should be sought from a financial adviser;
 - (g) That funds will be sent to the owner within three (3) business days after the life settlement provider has received the insurer's or group administrator's acknowledgment that ownership of the policy has been transferred and the beneficiary has been designated pursuant to the life settlement contract;
 - (h) That the disclosure document shall contain the following language:

"All medical, financial, or personal information solicited or obtained by a life settlement provider or life settlement broker about an insured, including the insured's identity or the identity of family members, a spouse, or a significant other may be disclosed as necessary to effect the life settlement between the owner and the life settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two (2) years."; and

- (i) That the insured may be contacted by the life settlement provider or its authorized representative for the purpose of determining the insured's health status or to verify the insured's address. This contact shall be limited to once every three (3) months if the insured has a life expectancy of more than one (1) year, and no more than once per month if the insured has a life expectancy of one (1) year or less.
- (2) A life settlement provider shall provide the owner with at least the following disclosures no later than the date the life settlement contract is signed by all parties. The disclosures shall be conspicuously displayed in the life settlement contract or in a separate document signed by the owner and the life settlement provider and provide the following information:
- (a) State the affiliation, if any, between the life settlement provider and the issuer of the policy to be acquired pursuant to a settlement contract;
 - (b) State the name, address and telephone number of the life settlement provider;
 - (c) If a policy to be acquired pursuant to a life settlement contract has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be acquired pursuant to a settlement contract, the owner shall be informed of the possible loss of coverage on the other lives and shall be advised to consult with his insurance producer or the company issuing the policy for advice on the proposed life settlement contract;
 - (d) State the dollar amount of the current death benefit payable to the life settlement provider under the policy. The life settlement provider shall, if known, also disclose the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy, and the life settlement provider's interest in those benefits;
 - (e) State the name, business address, and telephone number of the independent third party escrow agent, and the fact that the owner may inspect or receive copies of the relevant escrow or trust agreements or documents;
 - (f) The date by which the funds will be available to the owner and the transmitter of the funds;
 - (g) That a consumer guide shall be delivered to owners with each application as required in this subsection;
 - (h) That applications and life settlement contracts shall contain the statement as

required in KRS 304.15-717(2);

- (i) That a broker represents exclusively the owner, and not the insurer or the provider or any other person, and owes a fiduciary duty to the owner, including a duty to act according to the owner's instructions and in the best interests of the owner; and
 - (j) The fact that a change in ownership could in the future limit the insured's ability to purchase future insurance on the insured's life because there is a limit to how much coverage insurers will issue on one (1) life.
- (3) If the life settlement provider transfers ownership or changes the beneficiary of the policy, the life settlement provider shall communicate the change in ownership or beneficiary to the insured within twenty (20) days after the change.
- (4) A broker shall provide the owner and the provider with at least the following disclosures no later than the date the life settlement contract is signed by all parties. The disclosures shall be conspicuously displayed in the life settlement contract or in a separate document signed by the owner and provide the following information:
- (a) The name, business address, and telephone number of the broker;
 - (b) A full, complete, and accurate description of all the offers, counter-offers, acceptances, and rejections relating to the proposed life settlement contract;
 - (c) The name of each broker who receives compensation and the amount of compensation received by the broker, which compensation includes anything of value paid or given to the broker in connection with the life settlement contract;
 - (d) A complete reconciliation of the gross offer or bid by the provider to the net amount of proceeds or value to be received by the owner. For the purposes of this paragraph, "gross offer or bid" means the total amount or value offered by the provider for the purchase of one (1) or more life insurance policies, inclusive of the commissions and fees; and
 - (e) The failure to provide the disclosures or rights described in this section shall be deemed an unfair trade practice.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 1194, effective July 15, 2010. -- Amended 2008 Ky. Acts ch. 32, sec. 4, effective July 15, 2008. -- Amended 2005 Ky. Acts ch. 58, sec. 9, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 472, sec. 9, effective July 14, 2000. -- Created 1998 Ky. Acts ch. 403, sec. 4, effective July 15, 1998.

Legislative Research Commission Note (7/15/2008). 2008 Ky. Acts ch. 32 intended to change all existing references in the KRS from "viator" to "owner." One reference to "viator" in this section was overlooked during the bill drafting process. The Reviser of Statutes has made this change upon the authority of KRS 7.136(1)(h).